

1 UNITED STATES DISTRICT COURT  
2 CENTRAL DISTRICT COURT OF CALIFORNIA  
3 (WESTERN DIVISION - LOS ANGELES)  
4

5 THE HONORABLE CONSUELO B. MARSHALL, UNITED STATES DISTRICT  
6 JUDGE PRESIDING  
7

8 GLOBEFILL INCORPORATED, )  
9 )  
10 ) PLAINIFF, ) CASE NO.:  
11 ) VS. ) CV10-2034-CBM-PLA  
12 )  
13 ) ELEMENTS SPIRITS, INC, )  
14 ) ET AL, ) (11:16 A.M.)  
15 ) DEFENDANT. )  
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15 MOTION OF LAW FIRM OF ALVARADO SMITH TO WITHDRAW

16 AS COUNSEL FOR DEFENDANT KIM BRANDI

17 LOS ANGELES, CALIFORNIA  
18 AUGUST 6, 2012

19 DEPUTY CLERK: JOSEPH M. LEVARIO

20  
21 TRANSCRIBED BY: HUNTINGTON COURT REPORTERS  
22 & TRANSCRIPTION, INC.  
23 301 LAKE AVENUE, SUITE 150  
24 PASADENA, CALIFORNIA 91101

25 PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING;  
TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICES.

HUNTINGTON COURT REPORTERS & TRANSCRIPTION, INC.  
1-800-586-2988

1  
2 APPEARANCES

3  
4 FOR THE PLAINTIFF:

5 NO APPEARANCE  
6  
7

8 FOR THE DEFENDANT:

9  
10 ALVARADO SMITH APC  
11 BY: ROBERT ANTONIO RIVAS  
12 1 MACARTHUR PLACE, SUITE 200  
13 SANTA ANA, CA 92707  
14 (714) 852-6800  
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1 LOS ANGELES, CALIFORNIA, MONDAY, AUGUST 6, 2012

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3 THE CLERK: ITEM NUMBER FIVE, CV 10-2034, GLOBEFILL  
4 VERSUS ELEMENTS SPIRITS.

5 STATE APPEARANCES, PLEASE.

6 MR. RIVAS: GOOD MORNING, YOUR HONOR, ROBERT RIVAS OF  
7 ALVARADO SMITH ON BEHALF OF DEFENDANT KIM BRANDI.

8 THE COURT: GOOD MORNING. AND LET ME JUST ASK  
9 MR. LEVARIO WHAT NUMBER ON THE CALENDAR IS THIS ONE?

10 THE CLERK: NUMBER FIVE.

11 THE COURT: NUMBER FIVE. WELL, THE MATTER IS SET ON  
12 THE CALENDAR FOR A MOTION TO WITHDRAW AS COUNSEL FOR THE  
13 DEFENDANT KIM BRANDI, AND THE COURT HAS NOT SIGNED THE FORM YET  
14 BECAUSE I DON'T WANT TO LEAVE THE DEFENDANT WITHOUT  
15 REPRESENTATION. THE COURT UNDERSTANDS THAT THE COMPANY IS  
16 REPRESENTED BY COUNSEL, BUT THIS DEFENDANT IS PRESIDENT OF THE  
17 COMPANY?

18 MR. RIVAS: NO, SHE IS NO LONGER HAVE ANY INVOLVEMENT  
19 WITH THE COMPANY IN ANY CAPACITY EXCEPT FOR ARGUABLY A  
20 SHAREHOLDER.

21 THE COURT: NO LONGER ASSOCIATED WITH THE COMPANY.

22 MR. RIVAS: NO, SHE'S NOT AN EMPLOYEE, SHE'S NOT AN  
23 AGENT, SHE'S NOT A DIRECTOR, SHE'S NOT AN OFFICER.

24 THE COURT: OKAY. BUT SHE DID HOLD ONE OF THOSE OR  
25 DID SERVE IN ONE OF THOSE CAPACITIES AT THE TIME THAT THE

1 LAWSUIT WAS FILED?

2 MR. RIVAS: YES, YOUR HONOR, ABOUT TWO YEARS AGO.

3 THE COURT: WELL, I DON'T WANT TO LEAVE HER WITHOUT  
4 REPRESENTATION, SO DO YOU KNOW WHAT HER PLANS ARE, IS IT TO TRY  
5 TO OBTAIN COUNSEL?

6 MR. RIVAS: HER PLANS ARE -- INTERESTINGLY ENOUGH,  
7 YOUR HONOR, I REPRESENT HER. SHE'S THE PRESIDENT OF ANOTHER  
8 CLIENT OF MINE AND I'M IN CONTACT WITH HER EVERY DAY. SHE'S  
9 DEVELOPING OTHER LIQUOR BRANDS. AND HER PLANS ARE TO  
10 SUBSTITUTE IN AN ATTORNEY IN SAN DIEGO THAT'S BEEN REPRESENTING  
11 HER IN RELATED LITIGATION MATTERS AND IS HER PERSONAL LAWYER.  
12 HIS NAME IS JOHN, I BELIEVE IT'S JOHN MARSHALL. I CAN'T  
13 REMEMBER CORRECTLY THE NAME BUT HE'S IN SAN DIEGO.

14 THE COURT: AND WHEN DOES SHE EXPECT THAT HE WILL  
15 SEEK TO SUBSTITUTE IN?

16 MR. RIVAS: SOMETIME -- SHE'S STILL NEGOTIATING WITH  
17 HIM, IS MY UNDERSTANDING, THE TERMS OF THE ENGAGEMENT, SO I  
18 WOULD SAY WITHIN A MONTH, MONTH AND A HALF. SHE'S CURRENTLY  
19 TRAVELING ALL OVER THE UNITED STATES AND ASIA.

20 THE COURT: WELL, I WILL CONTINUE THE MOTION UNTIL A  
21 DATE THAT COUNSEL FEELS WILL GIVE HER SUFFICIENT TIME TO MAKE  
22 THE ARRANGEMENTS WITH COUNSEL IN SAN DIEGO. IF SHE DOES RETAIN  
23 THAT COUNSEL, THEN YOU MAY WITHDRAW THE MOTION AND SIMPLY  
24 PREPARE A SUBSTITUTION OF ATTORNEY FORM.

25 MR. RIVAS: OKAY.

1 THE COURT: WHICH THAT ATTORNEY WOULD SIGN AND YOU  
2 WOULD SIGN.

3 IF SHE DOES NOT RETAIN COUNSEL TO REPRESENT HER BY  
4 THE DATE THAT I'LL CONTINUE THIS MATTER ON THE CALENDAR, THEN  
5 COUNSEL WILL HAVE TO APPEAR AND SHE WILL ALSO HAVE TO APPEAR.

6 MR. RIVAS: THAT'S FINE, YOUR HONOR.

7 THE COURT: SO LET'S SELECT A DATE THAT WE THINK WILL  
8 WORK FOR EVERYONE.

9 IN THE MEANTIME, I DON'T KNOW IF THERE'S ANYTHING  
10 PENDING ON THE CASE.

11 MR. RIVAS: JUST YOUR ORDER ON THE -- I BELIEVE THE  
12 MOTION FOR PRELIMINARY INJUNCTION OF GLOBEFILL.

13 THE COURT: THAT'S RIGHT. I WAS GOING TO SAY COUNSEL  
14 WERE HERE LAST WEEK.

15 MR. RIVAS: CORRECT.

16 THE COURT: AND THE COURT WILL BE ISSUING A RULING ON  
17 THE PRELIMINARY INJUNCTION, BUT AT THAT POINT ONCE THAT RULING  
18 IS ISSUED THEN THERE IS NOTHING ELSE PENDING PRESENTLY.

19 MR. RIVAS: JUST THE SCHEDULING CONFERENCE ORDER, I  
20 BELIEVE.

21 THE COURT: AND DID I ISSUE DATES LAST WEEK WHEN THE  
22 PARTIES WERE HERE? DID WE HOLD THE CONFERENCE OR NOT?

23 MR. RIVAS: I BELIEVE WE GOT AN EMAIL NOTIFICATION OF  
24 THE ORDER OF WHEN THE SCHEDULING CONFERENCE IS TAKING PLACE.

25 THE COURT: IT HAS A DATE. AND DO WE KNOW WHAT DATE

1 THAT IS? BECAUSE I WOULD WANT HER REPRESENTED BY THAT TIME --

2 MR. RIVAS: CORRECT. AND THAT'S UNDERSTANDABLE, YOUR  
3 HONOR.

4 THE COURT: -- SO THAT SOMETHING COULD BE FILED ON  
5 HER BEHALF, SO WE SHOULD PROBABLY NOT CONTINUE IT BEYOND THAT  
6 DATE.

7 MR. RIVAS: THAT'S UNDERSTANDABLE.

8 THE CLERK: THE COMPUTERS ARE DOWN.

9 THE COURT: OKAY, OUR COMPUTERS ARE DOWN SO I'M NOT  
10 ABLE TO -- I DON'T KNOW WHAT DATE THAT IS. SO HOW MUCH TIME  
11 WOULD COUNSEL SUGGEST YOU BE GIVEN TO COMMUNICATE WITH YOUR  
12 CLIENT AND TO HAVE HER COMMUNICATE WITH THE COUNSEL THAT SHE  
13 HOPES WILL BE SUBSTITUTING IN THE CASE?

14 MR. RIVAS: I WOULD SAY -- SEPTEMBER IS A REALLY BUSY  
15 MONTH FOR ME, I'M ABOUT TO BE IN SAN FRANCISCO AND NEW YORK. I  
16 WOULD SAY MID-SEPTEMBER TOWARD THE END OF MAYBE THE WEEK OF THE  
17 16TH OR 18TH.

18 THE COURT: I'LL ASK MR. LEVARIO TO GIVE US A MONDAY.

19 THE CLERK: THE 17TH, YOUR HONOR.

20 THE COURT: SEPTEMBER 17TH.

21 MR. RIVAS: THAT'S FINE, YOUR HONOR. I BELIEVE -- I  
22 JUST -- IT'S HARD FOR ME, I'M INVOLVED IN A MASSIVE  
23 EMBEZZLEMENT CASE UP IN SAN FRANCISCO AND WE'VE BEEN ORDERED  
24 AND HAULED INTO DEPOSITIONS EVERY WEEK. SO IF ANYTHING CHANGES  
25 I'LL LET THE COURT KNOW. IT'S HARD FOR ME TO KEEP TRACK OF THE

1 DEPOSITION SCHEDULE IN THAT CASE.

2 THE COURT: SO SEPTEMBER 17TH, AND SHOULD WE SET IT  
3 FOR 10:00 A.M.?

4 THE CLERK: 10:00 A.M.

5 THE COURT: AT 10:00 A.M. SO THAT -- THE COURT HAS  
6 CONTINUED THE MOTION TO WITHDRAW AS COUNSEL TO THAT DATE. WHAT  
7 I'M HOPING WILL OCCUR IS A SUBSTITUTION OF ATTORNEY FORM CAN BE  
8 USED AND THEN IT WOULD NOT BE NECESSARY FOR YOU TO APPEAR  
9 AGAIN. WHAT I DON'T KNOW AT THIS POINT IS WHETHER THE  
10 SCHEDULING CONFERENCE IS PRIOR TO THAT DATE.

11 MR. RIVAS: OKAY.

12 THE COURT: IF IT IS, THEN YOU SHOULD --

13 MR. RIVAS: WE'LL PROBABLY JUST -- YES.

14 THE COURT: -- MAKE ARRANGEMENTS TO HAVE SOMEBODY  
15 PARTICIPATE --

16 MR. RIVAS: I WILL, YOUR HONOR.

17 THE COURT: -- FOR PURPOSES OF PREPARING THE REPORT.

18 MR. RIVAS: I WILL, YOUR HONOR.

19 THE COURT: SO THAT SHE CAN BE REPRESENTED.

20 MR. RIVAS: I WILL, YOUR HONOR.

21 THE COURT: SO CONTINUED TO SEPTEMBER 17TH AT  
22 10:00 A.M.

23 MR. RIVAS: ANY INDICATION OF WHEN THE RULING WILL BE  
24 COMING DOWN ON THE INJUNCTION?

25 THE COURT: NO, BUT I HOPE SOON.

1 MR. RIVAS: OKAY. THANK YOU, YOUR HONOR. HAVE A  
2 GREAT MORNING.

3 THE COURT: THANK YOU.

4 (CONCLUSION OF RECORDED PROCEEDING.)  
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CERTIFICATE

I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPT  
FROM THE ELECTRONIC SOUND RECORDING OF THE PROCEEDINGS IN THE  
ABOVE ENTITLED MATTER.

*Terri Harper*

8/11/12

\_\_\_\_\_  
TERRI HARPER, Transcriptionist  
Huntington Court Reporters &  
Transcription, Inc.

\_\_\_\_\_  
DATE